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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-210353

DATE: February 1, 1983

MATTER OF: American Medical Corporation

DIGEST:

1. Challenge of small business status of bidders is not considered by GAO since by law the matter is for determination by the Small Business Administration.
2. Protest that neither low nor second low bidder submitted with its bid a letter describing make, model and year of vehicles proposed to be furnished, including location of and telephone numbers of establishments from where vehicles would be dispatched, or metering devices to be used in determining mileage, involves bidder responsibility, the affirmative determination of which is not considered by the GAO except in circumstances not present here.

American Medical Corporation (American) protests the award of a contract to either the low or second low bidder under solicitation No. 520-37-83, issued by the Veterans Administration for ambulance services. The protester contends that neither the low bidder, Harrison-Jackson County Emergency Services District d/b/a AmServ, nor the second low bidder, Mobil-Medic Ambulance Service of Gulfport, Mississippi, qualifies as a small business concern. American also contends that neither the low nor second low bidder submitted with its bid a letter describing the make, model and year of vehicles proposed to be furnished, including the location of and telephone numbers of the establishments from which available vehicles would be dispatched, or the type of metering devices to be used in determining mileage.

The protest is dismissed for the reasons stated below.

Under 15 U.S.C. § 637(b)(6) (1976), the Small Business Administration (SBA) is empowered to conclusively determine matters of small business status for Federal procurement purposes. Under 15 U.S.C. § 634(b)(6) (1976), the SBA has authority to make such rules and regulations as are deemed necessary to carry out the authority vested in the SBA by

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this law. It is the duty of SBA, not this Office, to determine whether a concern is a small business for purposes of a particular procurement and SBA's determination is conclusive upon the procurement agency involved. See DOT Systems, Inc., B-183697, June 11, 1976, 76-1 CPD 368, and DOT Systems, Inc., B-205421, November 19, 1981, 82-1 CPD 38.

The allegations concerning the vehicles to be used, the establishments and telephone numbers from which the vehicles would be dispatched and the metering devices relate to responsibility, not responsiveness. Whether the bidders are responsible is a matter for decision by the contracting officer. We will not review a protest of an affirmative determination of responsibility, which is largely a business judgment, unless there is either a showing of possible fraud or bad faith on the part of procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied. Prospect Enterprises, Inc., B-206880, April 8, 1982, 82-1 CPD 330; Kingshead Corporation, B-207817, July 1, 1982, 82-2 CPD 10. Neither exception appears to be applicable in the present case.

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